

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DOUGLAS TUCKER,	)	
	)	
Plaintiff,	)	Civil Action No. 04-1892
	)	
v.	)	Judge McVerry
	)	Magistrate Judge Caiazza
WILLIAM S. STICKMAN, <i>et al.</i> ,	)	In Re: Doc. 24
	)	
Defendants.	)	

**MEMORANDUM ORDER**

The Plaintiff's complaint was received by the Clerk of Court on December 17, 2004, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's Report and Recommendation, filed on November 7, 2005, recommended that the Defendant's Motion to Dismiss be denied. Service was made on the Plaintiff by First Class United States Mail delivered to the State Correctional Institution at Rockview, Rockview, Pennsylvania where he is incarcerated. No Objections have been filed.

After of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 1<sup>st</sup> day of December, 2005,

IT IS HEREBY ORDERED that the that the Defendant's Motion to Dismiss (Doc. 24) is  
DENIED.

IT IS FURTHER ORDERED, the Report and Recommendation of Magistrate Judge  
Caiazza (Doc. 32) dated November 7, 2005, is adopted as the opinion of the court.

BY THE COURT:

s/ Terrence F. McVerry  
United States District Judge

cc:

Francis X. Caiazza  
U.S. Magistrate Judge

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